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Stewart and others. Judgment for plaintiffs, confirming a commissioner's report and ordering a sale, and defendants appeal. Affirmed.

Will A. Cook, of Madison, for appellants.

N. G. Payne, of Madison, for appellees.

NORFOLK SOUTHERN R. CO. *v.* GREENWICH CORP. et al.

March 21, 1918.

[95 S. E. 389.]

1. Parties (§ 59 (1)*)—Substitution.—An entirely new plaintiff cannot be substituted after it has become manifest the original plaintiff can not maintain the action, but the proper practice is to suffer a nonsuit before the jury retire, pursuant to Code 1904, § 3387, and renew the suit in the name of the proper plaintiff.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 345.]

2. Parties (§ 59 (1)*)—Substitution—New Cause of Action.—Code 1904, § 3259, permitting the writ or declaration to be amended to correct a variance, section 3260, requiring exception to jurisdiction to be taken by plea and forbidding such pleas after defendant has demurred, pleaded in bar, or answered, or after decree nisi or conditional judgment at rules, and Laws 1914, c. 331, permitting amendments at any time on terms, etc., do not contemplate substitution of entirely new plaintiffs, but apply to amendments involving amplified and supplemental statements of the original action, and were never intended to permit substitution of a new cause of action.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 346.]

3. Parties (§ 59 (1)*)—Substitution—Stockholders and Corporation.—That stockholders holding most of stock were legal holders of bill of lading and only persons entitled to sue initial carrier under Carmack Amendment (Act Cong. Feb. 4, 1887, c. 104, § 20, 24 Stat. 386, as amended by Act Cong. June 29, 1906, c. 3591, § 7, pars. 11, 12, 34 Stat. 595 [U. S. Comp. St. 1916, §§ 8604a, 8604aa]), would not permit their substitution for the corporation which had sued carrier for negligent delay, since a corporation is a separate entity from its stockholders, with power to sue and be sued, and in a legal forum they stand in the same relation to each other as other litigants.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 345.]

Error to Circuit Court, City of Norfolk.

Assumpsit by the Greenwich Corporation and others against the Norfolk Southern Railroad Company. There was a judg-

*For other cases, see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

ment for defendants, J. R. Simpson and another, and plaintiff brings error. Reversed.

Jas. G. Martin, of Norfolk, for plaintiff in error.

W. W. Terry, of Norfolk, for defendants in error.

TURNBULL et al. *v.* BRUNSWICK COUNTY.

March 21, 1918.

[95 S. E. 391.]

Highways (§ 127 (3)*)—Excessive Taxes—Levy.—If a local tax, legal and regular in other respects and designated for a single purpose, is levied in excess of the authorized rate, the tax is not thereby rendered invalid as to the whole amount but only as to the excess, and hence levy of a road tax, exceeding the amount permitted by Code 1904, § 944a, is void only as to the illegal excess, separable without difficulty from the authorized tax.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 672.]

Error to Circuit Court, Brunswick County.

Application by Edward R. Turnbull, Jr., and another for exoneration from payment of a road tax levied by the county of Brunswick. The court ordered that they be exonerated from only a part thereof, and they bring error. Affirmed.

B. A. Lewis, *E. R. Turnbull, Jr.*, and *N. R. Turnbull*, all of Lawrenceville, for plaintiffs in error.

Marvin Smithey, of Lawrenceville, for defendant in error.

DERRICK *v.* COMMONWEALTH.

March 21, 1918.

[95 S. E. 392.]

1. Licenses (§ 5*)—Civil Engineer—Power of Legislature.—The Legislature has power to impose a license tax on the practice of his profession by a civil engineer, upon his acting as a civil engineer, in the business of another as well as in his own business.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 310.]

2. Licenses (§ 11 (1)*)—License Tax—Civil Engineering—Statute—"Business."—Acts 1915, c. 148, § 89, providing that any person or firm who shall, for compensation, engage in the business of civil, mining, mechanical or electrical engineering, shall pay a license tax of \$15 per year for the privilege, does not impose a license tax on the mere practice of one's profession as a civil engineer, the mere

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